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Dear Applicant:

We have completed our consideration of your application for tax exemption under section 501(c)(4) of the Internal Revenue Code.

Your purpose is to provide for maintenance, preservation, and architectural control of the condominium development and to promote the recreation, health, safety and welfare of the residents within the development.

Financial support will be from membership dues and member assessments. Membership consists of the individual homeowners. Expenditures are for trash pickup, landscaping and lawn maintenance, water and sewer service, exterior maintenance of the condominiums, and other operating expenses. Exterior maintenance includes repair, replacement, cleaning, and painting of all outside siding and trim and maintenance of all common area exteriors, including common area fences and gates, stepping stones concrete walks and driveways. You will also provide roof maintenance and repairs.

Section 501(c)(4) of the Code provides for exemption from Federal income tax for an organization that is not organized for profit and is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Federal Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting some way the common good and general welfare of the people of the community.

Revenue Ruling 77-17, 1974-1 C.B. 131, held that a condominium homeowners association formed to provide for the management, maintenance, and care of the common areas of the project, does not qualify for exemption under section 501(c)(4) of the Code because the maintenance and care of the condominium units constitutes the provision of private benefits for the unit owners. Since the organization's activities were for the private benefit of its members, it could not be said to be operated exclusively for the promotion of social welfare. Your organization appears to be

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Rev. Rul. 74-99, 1974-1 C.B. 131, generally holds that a homeowners association, to qualify for exemption under section 501(c)(4) of the Code (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

Based on the information you have presented, your activities are not serving a community within the meaning of Revenue Ruling 74-99. Rather, your activities similar to those described in Revenue Ruling 74-17, primarily serve your individual members or homeowners. In addition, you are conducting activities directed to the exterior maintenance of the private residences. Accordingly, you do not meet the requirements of Revenue Ruling 74-99.

It is determined that you are operated primarily for the benefit of your members, rather than the general public, and tax exemption under section 501(c)(4) of the Internal Revenue Code is denied.

The Tax Reform Act of 1976 created new Internal Revenue Code Section 528 which permits certain homeowners' associations to be taxed only on their non-exempt function income. It is likely that your organization will qualify for treatment under Internal Revenue Code 528. Enclosed are publication 582 and form 1120-H for your review. Please refer to page 8 of the publication. The election to be treated under 528 is made by timely filing form 1120-H and there are no application fees to be filed.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible. You should also file the enclosed Federal income tax returns for years 1978, 1979, and 1980 within 60 days with Chief, Employee Plans/Exempt Organizations Division, 1100 Commerce, Dallas, Texas 75242.

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If you do not agree with these conditions, you may, within 30 days from the date of this letter, file a written protest in accordance with the instructions set forth in the enclosed Publication 892. If you do not file a protest within 30 days, this proposed determination will become final.

Sincerely,

[REDACTED]
District Director

Enclosures:
Form 6018
Publication 892 & 598
Form 1120
Form 1120b
Envelope